IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 7TH DECEMBER 2006 / 16TH AGRAHAYANA 1928

**Crl.Rev.Pet.No. 4112 of 2006()**

ST.987/2005 of JUDL.MAGISTRATE OF FIRST CLASS, VADAKARA

REVISION PETITIONER: COMPLAINANT:
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K. RIJU, S/O. KANNAN,
KAITHAKKAL HOUSE, POOLAKKOOL, KAKKATTIL,
NOW RESIDING AT KAVUMKUNIYIL HOUSE,
CHANIYAMKADAVU P.O., VATAKARA.

BY ADV. SRI.P.NARAYANAN

RESPONDENTS:
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STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.KAMMAPPU

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 07/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**K.T. SANKARAN, J.**

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**CRL.R.P.NO. 4112 OF 2006**

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**Dated this the 7th day of December,2006**

**O R D E R**

By the order dated 16.10.2006, the court below dismissed the complaint filed by the petitioner herein, under Section 204 of the Code of Criminal Procedure on the ground that the complainant was absent and no steps were taken to issue non-bailable warrant.

2. The petitioner filed the complaint in question against one Abdulla alleging offence under Section 138 of the Negotiable Instruments Act. Summons were issued to the accused on more than one occasion. He did not appear. Non-bailable warrant was issued against the accused. The case was posted to 23.6.2006. Non-bailable warrant was ordered to be repeated and the case was posted to 14.8.2006. Necessary process fee was paid by the

petitioner on 28.6.2006. On 14.8.2006, steps were initiated by the learned Magistrate under Sections 82 and 83 of the Code of Criminal Procedure and ordered to repeat the non-bailable warrant. The case was posted to 16.10.2006. These facts are stated in the Memorandum of Revision Petition. It is also stated that on 16.10.2006, it was noticed that necessary process fee was not paid due to the omission on the part of the Advocate's Clerk. Though time was prayed for, the court below was not inclined to grant time and the complaint was dismissed by the order impugned.

In the facts and circumstances, I am inclined to grant an opportunity to the petitioner to pay necessary process and take all steps which are required. The order impugned is set aside. The petitioner shall appear before the trial court on 18.12.2006 and take all the necessary steps and cure the defects, if any, before 21.12.2006. The

learned Magistrate shall proceed in accordance with law thereafter.

**(K.T.SANKARAN)**
**Judge**

ahz/

**K.T.SANKARAN, J.**

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**CRL.M.C.NO. OF**

**O R D E R**

September, 2006

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